

**Illinois Department of Revenue
Regulations**

Title 86 Part 695 Section 695.101 Nature of the County Motor Fuel Tax
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TITLE 86: REVENUE

**PART 695
COUNTY MOTOR FUEL TAX**

Section 695.101 Nature of the County Motor Fuel Tax

a) Authority to Impose Tax

Under the County Motor Fuel Tax Law ("Law") [55 ILCS 5/5-1035.1] *the county board of the counties of DuPage, Kane and McHenry may, by an ordinance or resolution adopted by the affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law [35 ILCS 505], at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. If imposed, such tax shall only be imposed in half-cent increments, at a rate not exceeding 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale. The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and rights-of-way for public highways and waterways within the county imposing the tax. The County Motor Fuel Tax imposed under the County Motor Fuel Tax Law is an occupation tax upon retailers of motor fuel and is administered by the Illinois Department of Revenue ("Department") in the same manner as the Retailers' Occupation Tax. The tax imposed by a county board under the County Motor Fuel Tax Law and this Part, and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Department.*

b) Passing on the Tax

The legal incidence of the County Motor Fuel Tax Law is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax imposed pursuant to the authority granted in the County Motor Fuel Tax Law to reimburse themselves for their County Motor Fuel Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax which sellers are required to collect under the Use Tax Act [35 ILCS 105], pursuant to such bracket schedules as the Department has prescribed (see 86 Ill. Adm. Code 150.Table A).

c) Exclusion from "Gross Receipts"

Any amount added to the selling price of motor fuel by the seller because of a County Motor Fuel Tax, or because of the Illinois Retailers' Occupation Tax [35 ILCS 120], the Illinois

Use Tax [35 ILCS 105], or any local occupation or use tax administered by the Department and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such County Motor Fuel Tax.